

House File 2100 - Introduced

HOUSE FILE 2100
BY QUIRK

A BILL FOR

1 An Act modifying provisions applicable to electric generating
2 and transmission facilities.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 476.53, Code 2009, is amended to read as
2 follows:

3 **476.53 Electric generating and transmission facilities.**

4 1. It is the intent of the general assembly to attract
5 the development of electric power generating and transmission
6 facilities within the state in sufficient quantity to ensure
7 reliable electric service to Iowa consumers and provide
8 economic benefits to the state.

9 2. a. The general assembly's intent with regard to the
10 development of electric power generating and transmission
11 facilities, as provided in subsection 1, shall be implemented
12 in a manner that is cost-effective and compatible with the
13 environmental policies of the state, as expressed in Title XI.

14 b. The general assembly's intent with regard to the
15 reliability of electric service to Iowa consumers, as provided
16 in subsection 1, shall be implemented by considering the
17 diversity of the types of fuel used to generate electricity,
18 the availability and reliability of fuel supplies, and the
19 impact of the volatility of fuel costs.

20 ~~3. For purposes of this section, unless the context~~
21 ~~otherwise requires, the terms "cogeneration pilot project~~
22 ~~facility", "energy sales agreement", "qualified cogeneration~~
23 ~~pilot project facility", and "utility-owned cogeneration pilot~~
24 ~~project facility" mean the same as defined in section 15.269.~~

25 ~~4.~~ 3. a. The board shall specify in advance, by order
26 issued after a contested case proceeding, the ratemaking
27 principles that will apply when the costs of ~~the~~ an electric
28 power generating facility, ~~or~~ or alternate energy production
29 facility, ~~cogeneration pilot project facility, or energy sales~~
30 ~~agreement~~ are included in regulated electric rates whenever a
31 rate-regulated public utility does any of the following:

32 (1) Files an application pursuant to section 476A.3 to
33 construct in Iowa a baseload electric power generating facility
34 with a nameplate generating capacity equal to or greater than
35 three hundred megawatts or a combined-cycle electric power

1 generating facility, or an alternate energy production facility
2 as defined in section 476.42.

3 (2) Leases or owns in Iowa, in whole or in part, a new
4 baseload electric power generating facility with a nameplate
5 generating capacity equal to or greater than three hundred
6 megawatts or a combined-cycle electric power generating
7 facility, or a new alternate energy production facility as
8 defined in section 476.42.

9 ~~(3) Enters into an agreement for the purchase of the~~
10 ~~electric power output of a qualified cogeneration pilot project~~
11 ~~facility or constructs a utility-owned cogeneration pilot~~
12 ~~project facility pursuant to section 15.269.~~

13 b. In determining the applicable ratemaking principles,
14 the board shall not be limited to traditional ratemaking
15 principles or traditional cost recovery mechanisms. Among the
16 principles and mechanisms the board may consider, the board
17 has the authority to approve ratemaking principles proposed by
18 a rate-regulated public utility that provide for reasonable
19 restrictions upon the ability of the public utility to seek
20 a general increase in electric rates under section 476.6 for
21 at least three years after the generating facility begins
22 providing service to Iowa customers.

23 c. In determining the applicable ratemaking principles, the
24 board shall make the following findings:

25 (1) The rate-regulated public utility has in effect a
26 board-approved energy efficiency plan as required under section
27 476.6, subsection 16.

28 (2) The rate-regulated public utility has demonstrated to
29 the board that the public utility has considered other sources
30 for long-term electric supply and that the facility, or lease,
31 ~~or cogeneration pilot project facility~~ is reasonable when
32 compared to other feasible alternative sources of supply. The
33 rate-regulated public utility may satisfy the requirements of
34 this subparagraph through a competitive bidding process, under
35 rules adopted by the board, that demonstrate the facility,

1 ~~energy sales agreement~~, or lease is a reasonable alternative to
2 meet its electric supply needs.

3 *d.* The applicable ratemaking principles shall be determined
4 in a contested case proceeding, which proceeding may be
5 combined with the proceeding for issuance of a certificate
6 conducted pursuant to chapter 476A.

7 *e.* The order setting forth the applicable ratemaking
8 principles shall be issued prior to the commencement of
9 construction or lease of the facility, ~~or execution of an~~
10 ~~energy sales agreement related to the cogeneration pilot~~
11 ~~project facility.~~

12 *f.* Following issuance of the order, the rate-regulated
13 public utility shall have the option of proceeding according to
14 either of the following:

15 (1) Withdrawing its application for a certificate pursuant
16 to chapter 476A.

17 (2) Proceeding with the construction or lease of the
18 facility ~~or implementation of an energy sales agreement related~~
19 ~~to a cogeneration pilot project facility.~~

20 *g.* Notwithstanding any provision of this chapter to the
21 contrary, the ratemaking principles established by the order
22 issued pursuant to paragraph "e" shall be binding with regard to
23 the specific electric power generating facility ~~or cogeneration~~
24 ~~pilot project facility~~ in any subsequent rate proceeding.

25 ~~5.~~ 4. The utilities board and the consumer advocate
26 may employ additional temporary staff, or may contract
27 for professional services with persons who are not state
28 employees, as the board and the consumer advocate deem
29 necessary to perform required functions as provided in this
30 section, including but not limited to review of power purchase
31 contracts, review of emission plans and budgets, and review
32 of ratemaking principles proposed for construction or lease
33 of a new generating facility ~~or a cogeneration pilot project~~
34 ~~facility.~~ Beginning July 1, 2002, there is appropriated out
35 of any funds in the state treasury not otherwise appropriated,

1 such sums as may be necessary to enable the board and the
2 consumer advocate to hire additional staff and contract for
3 services under this section. The costs of the additional staff
4 and services shall be assessed to the utilities pursuant to the
5 procedure in section 476.10 and section 475A.6.

6 ~~6. a. A qualified cogeneration pilot project facility~~
7 ~~may file a petition with the board for a determination of the~~
8 ~~avoided cost of an electric utility as provided in the federal~~
9 ~~Public Utility Regulatory Policies Act of 1978 and related~~
10 ~~federal regulations, if such a determination has not been made~~
11 ~~within the last twenty-four months or if there is reason to~~
12 ~~believe the avoided cost has changed.~~

13 ~~b. The board shall issue its determination of the electric~~
14 ~~utility's avoided cost within one hundred twenty days after the~~
15 ~~petition is filed.~~

16 ~~c. The board, for good cause shown, may extend the deadline~~
17 ~~for issuing the decision for an additional period not to exceed~~
18 ~~one hundred twenty days.~~

19 ~~d. The board shall not issue a decision under this~~
20 ~~subsection without providing notice and an opportunity for~~
21 ~~hearing.~~

22 ~~e. The utilities board and the consumer advocate may employ~~
23 ~~additional temporary staff, or may contract for professional~~
24 ~~services with persons who are not state employees, as the~~
25 ~~board and the consumer advocate deem necessary to perform~~
26 ~~required functions as provided in this subsection. There~~
27 ~~is appropriated out of any funds in the state treasury not~~
28 ~~otherwise appropriated, such sums as may be necessary to enable~~
29 ~~the board and the consumer advocate to hire additional staff~~
30 ~~and contract for services under this section. The costs of the~~
31 ~~additional staff and services shall be assessed to the electric~~
32 ~~utility pursuant to the procedure in sections 476.10 and~~
33 ~~475A.6.~~

34 5. In order to encourage electric utility investment in
35 nuclear power generating facilities, the board shall by rule

1 establish a mechanism for the recovery of the costs of siting,
2 design, licensing, and construction incurred by electric
3 utilities subject to rate-regulation applying for a certificate
4 pursuant to chapter 476A for the construction of a nuclear
5 power plant. The rules shall also provide for the recovery
6 over a reasonable period of time of all prudent preconstruction
7 and construction costs if a utility elects not to complete or
8 is precluded from completing construction of a nuclear power
9 plant after issuance of a certificate under chapter 476A. The
10 rules shall include but not be limited to conducting contested
11 case proceedings and determining applicable ratemaking
12 principles.

13 Sec. 2. Section 476A.3, Code 2009, is amended to read as
14 follows:

15 **476A.3 Application submitted — review.**

16 1. An application for a certificate or an amendment to
17 a certificate shall be submitted to the board on such forms
18 as the board may prescribe. Copies of the application shall
19 be forwarded to regulatory agencies. Regulatory agencies
20 receiving a copy of the application shall conduct a preliminary
21 review of the contents and shall evaluate the application for
22 completeness and compliance with the regulatory agency's permit
23 and licensing requirements within a reasonable amount of time.

24 2. Applications submitted under this section, and decisions
25 of the board under section 476A.6 regarding such applications,
26 are governed by the applicable provisions of law in effect on
27 the date the application was submitted.

28 EXPLANATION

29 This bill modifies provisions applicable to electric
30 generating and transmission facilities.

31 The bill expands current legislative intent regarding the
32 development of electric power generating and transmission
33 facilities to ensure reliable electric service. The bill
34 provides that reliability of service should take into
35 account the diversity of the types of fuel used to generate

1 electricity, the availability and reliability of fuel supplies,
2 and the impact of the volatility of fuel costs.

3 The bill also provides that in order to encourage electric
4 utility investment in nuclear power generating facilities,
5 the Iowa utilities board shall by rule establish a cost
6 recovery mechanism for the costs of siting, design, licensing,
7 and construction incurred by electric utilities subject
8 to rate-regulation applying for a certificate of public
9 convenience, use, and necessity for the construction of a
10 nuclear power plant. The bill states that the rules shall
11 also provide for cost recovery of all prudent preconstruction
12 and construction costs if a utility elects not to complete or
13 is precluded from completing construction of a nuclear power
14 plant after issuance of a certificate. The rules shall also
15 include conducting contested case proceedings and determining
16 applicable ratemaking principles.

17 The bill provides that an application for a certificate, and
18 a decision by the board regarding such application, shall be
19 governed by the applicable provisions of law in effect on the
20 date the application was submitted.

21 Additionally, the bill deletes outdated provisions
22 referencing a cogeneration pilot program which was repealed
23 effective July 1, 2007.